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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,368	06/23/2003	Matthew P. Warden	ROL-002US	7114
31496	7590	11/04/2004	EXAMINER	
SMITH PATENT CONSULTING CONSULTING, LLC P.O. BOX 2726 ALEXANDRIA, VA 22301			MENDOZA, MICHAEL G	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,368

Applicant(s)

WARDEN ET AL.

Examiner

Michael G. Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 15-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9 February 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Warthen 4845851.

3. Warthen teaches a suture removal instrument comprising: an elongated body having a proximal handle portion and insulated (plastic) distal portion (figs. 2a & 2b); a first conductive member (14 + 18) extending from the insulated distal portion, terminating in a tapered tip (fig. 5); a resistive heating 20 element extending alongside the first conductive member and affixed at its distal end to the tapered tip; conduction means; activation means; a cylindrical housing (figs. 2a & 2b); wherein the first conductive member comprises an elongated cylinder 18; wherein the tapered tip comprises a flat scoop (14 is a strip, a strip is flat); wherein the resistive heating element comprises a thin filament (figs. 1, 5, 6, & 8); wherein the resistive heating element is formed from a material selected from the group consisting of nichrome, tungsten, nickel, and stainless steel (col. 3, lines 15-17); a second conductive member (12 + 16) extending from the insulated distal portion of the elongated body, wherein the resistive heating element is affixed at its proximal end to the second conductive member (fig. 5); wherein the heating element forms an acute angle with the axis of the tapered tip;

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wherein the acute angle ranges from about 5 to about 40 degrees (fig. 5); a power source (38 & 40) contained with the handle portion of the elongated body; the power source comprises at least one battery (38 & 40); wherein the activation means for controlling the supply of power to the heating element comprises an actuator button 49.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warthen.

6. As to claim 4, Warthen teaches the suture removal instrument of claim 1. It should be noted that Warthen fails to teach a tapered tip with a conical point. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tapered tip a conical point because the shape of the tapered tip is a mere design choice and that any shape would perform equally well.

7. As to claim 13, Warthen teaches the suture removal instrument of claim 1. It should be noted that Warthen fails to teach a power cord adapted for connection to a wall outlet. However, it is well known in the art of hand-held devices to include a power cord for connection to a wall outlet. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a power

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cord to supply the suture removal instrument with a constant supply of power as opposed to a battery that can be exhausted.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tischlinger 4384406 in view of Warthen.

10. Tischlinger teaches a method for removing a suture from the skin of a patient, comprising the step: removing the suture from the patient's skin. It should be noted that Tischlinger fails to teach applying heat to a loop of the suture so as to heat and cut the suture loop.

11. Warthen teaches a device for applying heat to a suture so as to heat and cut the suture. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the device of Warthen to apply heat to cut a suture loop as an alternative suture cutting means.

Allowable Subject Matter

12. Claims 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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13. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or render obvious the overall claimed invention of a suture removal instrument comprising a thermal shield disposed about a first conductive member and mounted to a insulated portion of a elongated body.

Contacts


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (703) 305-3285. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dawson can be reached on (703) 308-4304. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



MM
October 19, 2004


**GLENN K. DAWSON
PRIMARY EXAMINER**